IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.84 OF 2004

Arjun Kisan Godambe. ... Applicant
Versus.
Ashok Sopanrao Bhosale & ors. ... Respondents.

Shri Milind Parab for the Applicant.

Shri Rahul S.Kate for the Respondent No.1.

Ms.M.M.Deshmukh, A.P.P. for the State.

CORAM : ABHAY S. OKA, J.

DATED : 23rd June, 2005.

P.C.:

1. This Revision Application is filed by the Applicant/Complainant in a case arising out of the proceedings under section 138 of the Negotiable Instruments Act. An order of conviction passed by the learned Judicial Magistrate First Class, Pune, was set aside in Appeal preferred by the Respondent No.1 by the learned Additional Sessions Judge, Pune. The learned Additional Sessions Judge held that the evidence of the defence witnesses was reliable and probable. One of the defence witness is a partner and cousin of the Complainant.

2. The case of the Respondent No.1 appears to be that he has not received any amount from the original Complainant and that he had entered into an agreement to purchase a flat in the building scheme of the

Complainant and towards the payment of consideration he had issued blank cheques. The evidence which was led in defence has been accepted by the learned Additional Sessions Judge by holding that the transaction of sale could not materialise and the cheques remained with the Complainant. The finding of fact recorded by the learned Addl.Sessions Judge is that on the basis of the defence evidence the presumption regarding existence of consideration stands rebutted. The said finding is based purely on appreciation of the oral evidence on record and cannot be interfered with in Revision Application.

3. Moreover no procedural irregularity or manifest error of law has been pointed out. There is no merit in the Revision Application. The same is rejected.

Judge.